Remarks

The Notice of Non-Compliant Amendment dated March 31, 2006 and the Notice of Non-Compliant Amendment dated July 6, 2006 have been carefully reviewed and the response to the Office Action mailed July 5, 2005 is resubmitted herewith.

Claims 1-4, 7-11, and 14-15 are now pending in this application. Claims 1-15 stand rejected. Claims 5, 6, 12, and 13 have been canceled.

Applicants respectfully traverse the assertion in the Notice of Non-Compliant Amendment dated March 31, 2006 that "the holder of Figure 3 does not have a basis in the Specification for being flexible. Applicants note that paragraph [0016] of the pending application recites, "identification tag 106 is flexible to substantially contour against another surface of container 108." Moreover, paragraph [0016] recites, "identification tag 106 is sized for insertion into cavity 140." As such one of ordinary skill in the art would understand that the tag holder would also be flexible, such that the identification tag can contour to a surface of the container. In addition, the specification does not recite nor suggest that the tag holder is not flexible.

The rejection of Claims 1, 2, 5, 8, 9, 12, and 15 under 35 U.S.C. § 102(b) as being anticipated by Wolpa (U.S. 5,992,073) is respectfully traversed.

Wolpa describes an identification device (10) that is coupled to an exterior surface (16) of a storage container (15). Identification device (10) includes a label holder (20), a label engagement means (30), a label means (40), and an attachment means (50). Label holder (20) includes a box frame (22) having a slot entrance aperture (34) sized to receive the label means (40) therein. Box frame (22) is substantially three-dimensionally rectangular, such that the exterior wall (24) of frame (22) is substantially parallel to the interior wall of frame (22). Identification device (10) is attached to the exterior surface (16) of the storage container (15) by a strap (52) or through the use of an adhesive bonding (54). Notably, Wolpa does not describe or suggest a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism.

Claim 1 recites a container identification system comprising "a fastener mechanism configured to extend for a length at least partially around an outer perimeter of a container . . . a tag holder coupled to said fastener mechanism and comprising an outer surface and an inner surface, said inner surface defining a cavity within said tag holder, said cavity having a circumferential length that is less than the length of said fastener mechanism, said cavity sized to receive indicia therein for identifying the container . . . an attachment mechanism having a first portion coupled to said tag holder and a second portion coupled to said fastener mechanism and configured to couple to said attachment mechanism first portion, such that said tag holder is coupled to said fastener mechanism."

Wolpa does not describe nor suggest a container identification system as is recited in Claim 1. Specifically, Wolpa does not describe nor suggest a container identification system including a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism. Rather, in contrast to the present invention, Wolpa describes an identification device having a strap or an adhesive bond that is coupled directly thereto. Accordingly, Claim 1 is submitted to be patentable over Wolpa.

Claim 5 has been canceled. Claims 2 and 8 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2 and 8 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2 and 8 likewise are patentable over Wolpa.

Claim 9 recites a method of identifying a container, wherein the method comprises "coupling a tag holder to a fastener mechanism using an attachment mechanism to facilitate forming a container identification system, wherein the attachment mechanism includes a first portion coupled to the tag holder and a second portion coupled to the fastener mechanism and configured to couple to the first portion . . . coupling the container identification system to a container, such that the fastener mechanism extends for a length at least partially around an outer perimeter of the container, and wherein the tag holder has a circumferential length that is shorter than the length of the fastening mechanism . . . coupling an identification tag to the tag holder that facilitates identifying the container."

Wolpa does not describe nor suggest a method of identifying a container as is recited in Claim 9. Specifically Wolpa does not describe nor suggest a method including coupling a tag holder to a fastener mechanism using an attachment mechanism to facilitate forming a container identification system, wherein the attachment mechanism includes a first portion coupled to the tag holder and a second portion coupled to the fastener mechanism and configured to couple to the first portion. Rather, in contrast to the present invention, Wolpa describes an identification device having a strap or an adhesive bond that is coupled directly thereto. Accordingly, Claim 9 is submitted to be patentable over Wolpa.

Claim 12 has been canceled. Claim 15 depends, directly or indirectly, from independent Claim 9. When the recitations of Claim 15 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claim 15 likewise is patentable over Wolpa.

For at least the reasons set forth above, Applicant respectfully requests that the Section 102(b) rejection of Claims 1, 2, 5, 8, 9, 12, and 15 be withdrawn.

The rejection of Claims 3-4 and 10-11 under 35 U.S.C § 103 as being unpatentable over Wolpa in view of Siegrist (U.S. 6,550,813) is respectfully traversed.

Wolpa is described above. Siegrist describes a reusable identification tag (50) having a substantially flat substrate (51) that is adapted to receive graphics and indicia (52) thereon. Substrate (51) is covered with a top layer (53) fabricated from a non-porous erasable film. Tag (50) is attached to an item using a string or strap extended through a hole (54) near an outer perimeter of tag (50). Notably, Siegrist does not describe nor suggest a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism.

Claims 3-4 depend from independent Claim 1 which recites a container identification system comprising "a fastener mechanism configured to extend for a length at least partially around an outer perimeter of a container . . . a tag holder coupled to said fastener mechanism and comprising an outer surface and an inner surface, said inner surface defining a cavity within said tag holder, said cavity having a circumferential length that is less than the length of said fastener mechanism, said cavity sized to receive indicia therein for identifying the

container . . . an attachment mechanism having a first portion coupled to said tag holder and a second portion coupled to said fastener mechanism and configured to couple to said attachment mechanism first portion, such that said tag holder is coupled to said fastener mechanism."

Neither Wolpa nor Siegrist, considered alone or in combination, describe or suggest a container identification system as is recited in Claim 1. Specifically no combination of Wolpa or Siegrist describes or suggests a container identification system including a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism. Rather, in contrast to the present invention, Wolpa describes an identification device having a strap or an adhesive bond that is coupled directly thereto, and Siegrist describes an identification device including a tag and a strap that extends through a slot defined within the tag. Accordingly, Claim 1 is submitted to be patentable over Wolpa in view of Siegrist.

Claims 3-4 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 3-4 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3-4 likewise are patentable over Wolpa in view of Siegrist.

Claims 10-11 depend from independent Claim 9 which recites a method of identifying a container, wherein the method comprises "coupling a tag holder to a fastener mechanism using an attachment mechanism to facilitate forming a container identification system, wherein the attachment mechanism includes a first portion coupled to the tag holder and a second portion coupled to the fastener mechanism and configured to couple to the first portion . . . coupling the container identification system to a container, such that the fastener mechanism extends for a length at least partially around an outer perimeter of the container, and wherein the tag holder has a circumferential length that is shorter than the length of the fastening mechanism . . . coupling an identification tag to the tag holder that facilitates identifying the container."

Neither Wolpa nor Siegrist, considered alone or in combination, describe or suggest a method of identifying a container as is recited in Claim 9. Specifically, no combination of Wolpa or Siegrist describe or suggest a method including coupling a tag holder to a fastener

mechanism using an attachment mechanism to facilitate forming a container identification system, wherein the attachment mechanism includes a first portion coupled to the tag holder and a second portion coupled to the fastener mechanism and configured to couple to the first portion. Rather, in contrast to the present invention, Wolpa describes an identification device having a strap or an adhesive bond that is coupled directly thereto, and Siegrist describes an identification device including a tag and a strap that extends through a slot defined within the tag. Accordingly, Claim 9 is submitted to be patentable over Wolpa in view of Siegrist.

Claims 10-11 depend, directly or indirectly, from independent Claim 9. When the recitations of Claims 10-11 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claims 10-11 likewise are patentable over Wolpa in view of Siegrist.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 3-4 and 10-11 be withdrawn.

The rejection of Claims 6-7 and 13-14 under 35 U.S.C § 103(a) as being unpatentable over Wolpa in view of Siebe (U.S. 1,761,995) is respectfully traversed.

Wolpa is described above. Siebe describes a price tag holder including a frame (1), formed of a sheet of metal plate (2). The holder is fabricated such that the bottom and end edges are folded to permit removal and replacement of a price card (5). The holder further includes a body plate (2) having tongues (6, 7, 8) that are bent back on a rear side of the plate (2) to engage a wire (9). Wire (9) encloses an article of merchandise to attach frame (1) thereon. Notably, Siebe does not describe nor suggest a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism.

Claim 6 has been canceled. Claim 7 depends from independent Claim 1 which recites a container identification system comprising "a fastener mechanism configured to extend for a length at least partially around an outer perimeter of a container . . . a tag holder coupled to said fastener mechanism and comprising an outer surface and an inner surface, said inner surface defining a cavity within said tag holder, said cavity having a circumferential length that is less than the length of said fastener mechanism, said cavity sized to receive indicia

therein for identifying the container . . . an attachment mechanism having a first portion coupled to said tag holder and a second portion coupled to said fastener mechanism and configured to couple to said attachment mechanism first portion, such that said tag holder is coupled to said fastener mechanism."

Neither Wolpa nor Siebe, considered alone or in combination, describe or suggest a container identification system as is recited in Claim 1. Specifically no combination of Wolpa or Siebe describe or suggest a container identification system including a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism. Rather, in contrast to the present invention, Wolpa describes an identification device having a strap or an adhesive bond that is coupled directly thereto, and Siebe describes a tag holder that includes a wire coupled thereto and configured to extend around a container. Accordingly, Claim 1 is submitted to be patentable over Wolpa in view of Siebe.

Claim 6 has been canceled. Claim 7 depends, directly or indirectly, from independent Claim 1. When the recitations of Claim 7 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claim 7 likewise is patentable over Wolpa in view of Siebe.

Claim 13 has been canceled. Claim 14 depends from independent Claim 9 which recites a method of identifying a container, wherein the method comprises "coupling a tag holder to a fastener mechanism using an attachment mechanism to facilitate forming a container identification system, wherein the attachment mechanism includes a first portion coupled to the tag holder and a second portion coupled to the fastener mechanism and configured to couple to the first portion . . . coupling the container identification system to a container, such that the fastener mechanism extends for a length at least partially around an outer perimeter of the container, and wherein the tag holder has a circumferential length that is shorter than the length of the fastening mechanism . . . coupling an identification tag to the tag holder that facilitates identifying the container."

Neither Wolpa nor Siebe, considered alone or in combination, describe or suggest a method of identifying a container as is recited in Claim 9. Specifically, no combination of Wolpa or Siebe describe or suggest a method including coupling a tag holder to a fastener

mechanism using an attachment mechanism to facilitate forming a container identification system, wherein the attachment mechanism includes a first portion coupled to the tag holder and a second portion coupled to the fastener mechanism and configured to couple to the first portion. Rather, in contrast to the present invention, Wolpa describes an identification device having a strap or an adhesive bond that is coupled directly thereto, and Siebe describes a tag holder that includes a wire coupled thereto and configured to extend around a container. Accordingly, Claim 9 is submitted to be patentable over Wolpa in view of Siebe.

Claim 13 has been canceled. Claim 14 depends, directly or indirectly, from Claim 9. When the recitations of Claim 14 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claim 14 likewise is patentable over Wolpa in view of Siebe.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 6-7 and 13-14 be withdrawn.

The rejection of Claims 1, 2, 5, and 8 under 35 U.S.C. §103(a) as being unpatentable over Reinsberg (U.S. 3,586,220) is respectfully traversed.

Reinsberg describes an identification holder (10) having a pair of sheets (11, 12) with their peripheral edge marginal regions secured together so as to provide an enclosed area between their opposing sufaces adapted to hold an inserted sheet. The front sheet (11) is formed with an enlarged central opening behind which a transparent sheet (14) as placed. The back of sheet (12) further includes an elongated linear slot (26) through which a sheet can be maneuvered. Reinsberg further includes two attachment portions (15, 16) coupled at opposite ends of holder (10) and configured to extend around a container. Notably, Reinsberg does not describe nor suggest a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism.

Claim 5 has been canceled. Claims 2 and 8 depend, directly or indirectly from independent Claim 1 which recites a container identification system comprising "a fastener mechanism configured to extend for a length at least partially around an outer perimeter of a container . . . a tag holder coupled to said fastener mechanism and comprising an outer

surface and an inner surface, said inner surface defining a cavity within said tag holder, said cavity having a circumferential length that is less than the length of said fastener mechanism, said cavity sized to receive indicia therein for identifying the container . . . an attachment mechanism having a first portion coupled to said tag holder and a second portion coupled to said fastener mechanism and configured to couple to said attachment mechanism first portion, such that said tag holder is coupled to said fastener mechanism."

Reinsberg does not describe nor suggest a container identification system as is recited in Claim 1. Specifically, Reinsberg does not describe nor suggest a container identification system including a tag holder coupled to a fastener mechanism using an attachment mechanism having first portion coupled to the tag holder and a second portion coupled to the fastener mechanism. Rather, in contrast to the present invention, Reinsberg describes an identification holder including two attachment portions coupled directly thereto. Accordingly Claim 1 is submitted to be patentable over Reinsberg.

Claim 5 has been canceled. Claims 2 and 8 depend, directly or indirectly, from Claim 1. When the recitations of Claims 2 and 8 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2 and 8 likewise are patentable over Reinsberg.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 1, 2, 5, and 8 be withdrawn.

Moreover, obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Wolpa, Siegrist, Siebe, or Reinsberg. As explained by the Federal Circuit, "to establish obviousness based on a combination of elements disclosed in the prior art, there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the Applicant." In re Kotzab, 54 U.S.P.Q.2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Furthermore, as is well established, the mere fact that the prior art structure could be modified does not make such a modification obvious unless the prior art suggests the desirability of doing so. See In re Gordon, 221 U.S.P.Q.2d 1125 (Fed. Cir. 1984). Furthermore, the Federal Circuit has determined that:

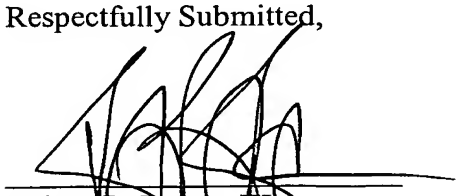
> "it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." In re Fitch, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992).

Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 U.S.P.Q. 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Accordingly, since there is no teaching nor suggestion in the cited art for the claimed combinations, the Section 103 rejections appear to be based on hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such combinations are impermissible, and for at least this reason, Applicant requests that the Section 103 rejections of the Claims be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in the application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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